

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

CLAY LYNDON WYANT,

Plaintiff,

v.

CHELAN COUNTY; BRYAN JONES,
his capacity as a police
officer for Chelan County and
as an individual; CURTIS
VARNER, in his capacity as a
police officer for Chelan
County and as an individual;
and LEIGH FERGUSON, in his
capacity as a police officer
for Chelan County and as an
individual,

Defendants.

NO. CV-08-0196-EFS

**ORDER MEMORIALIZING THE
COURT'S FEDERAL RULE OF CIVIL
PROCEDURE 50(a) RULINGS,
DIRECTING ENTRY OF JUDGMENT,
AND CLOSING FILE**

On October 28, 2010, Plaintiff Clay Wyant completed his trial presentation. Defense counsel Heather Yakely then moved for a judgment as a matter of law as to all claims in Defendants' favor. (ECF No. [143](#).) This Order supplements and memorializes the Court's oral rulings granting Defendants' motion.

A. 42 U.S.C. § 1983 Claims

Plaintiff had a 42 U.S.C. § 1983 claim against the individual law enforcement officer Defendants Bryan Jones, Curtis Varner, and Leigh Ferguson for unlawful arrest, and § 1983 claims against Defendant Chelan

1 County for failure to train its law enforcement officers and for
2 malicious prosecution.

3 1. Individual Law Enforcement Officer Defendants

4 In order to prove his § 1983 claim for unlawful arrest, Plaintiff
5 needed to prove by a preponderance of the evidence that 1) Defendants
6 Bryan Jones, Curtis Varner, and/or Leigh Ferguson acted under color of
7 law, 2) that a Defendant arrested Plaintiff, 3) no probable cause existed
8 to believe that Plaintiff had committed or was committing a crime, and
9 4) the Defendant's act was the moving force that caused Plaintiff's
10 injury. *See Edgerly v. City & County of San Francisco*, 599 F.3d 946, 954
11 (9th Cir. 2010).

12 After considering the testimony and evidence presented during
13 Plaintiff's case, the Court finds that no reasonable jury could find that
14 the law enforcement officers lacked probable cause to believe that
15 Plaintiff had resisted arrest. *See* RCW 9A.76.040 (defining resisting
16 arrest as intentionally preventing or attempting to prevent a law
17 enforcement officer from lawfully arresting him); *Dubner v. City & County*
18 *of San Francisco*, 266 F.3d 959 (9th Cir. 2001) (defining probable cause);
19 *Washington v. Valentine*, 132 Wn.2d 1, 21-22 (1997) (discussing resisting
20 arrest). Because Plaintiff failed to present evidence to support the
21 lack-of-probable-cause element, the Court dismisses Plaintiff's § 1983
22 claim against Defendants Jones, Varner, and Ferguson.¹

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25 ¹ Plaintiff also failed to present evidence that Defendant Ferguson
26 participated in the arrest of Plaintiff. The § 1983 claim against
Defendant Ferguson is also dismissed on this basis.

1 2. Chelan County

2 Plaintiff asserted two § 1983 claims against Chelan County: 1)
3 failure to train its law enforcement officers and 2) malicious
4 prosecution. As to the first claim, Plaintiff failed to present any
5 evidence regarding Chelan County's training policies, or lack thereof.
6 Therefore, the Court finds no reasonable jury could find that Chelan
7 County failed to adequately train its police officers or was deliberately
8 indifferent to the consequences of its alleged failure to train. See
9 *Merritt v. County of Los Angeles*, 875 F.2d 765, 769-70 (9th Cir. 1989)
10 (finding single incident of errant behavior insufficient to establish
11 policy of inadequate training). Accordingly, this § 1983 claim against
12 Chelan County is dismissed.

13 Plaintiff's § 1983 malicious prosecution claim is also dismissed.
14 Chelan County Prosecutor Amee Tilger credibly testified that she made an
15 independent probable cause determination on the basis of the officers'
16 reports before prosecuting Plaintiff for resisting arrest. Likewise,
17 Chelan County Judge Nakata made an independent probable cause
18 determination on the basis of the officers' reports. Nothing in the
19 officers' reports was impeached; therefore, no issue of fact was created
20 that would allow a reasonable jury to determine that probable cause was
21 lacking. For these reasons, the Court dismisses Plaintiff's § 1983
22 malicious prosecution claim. See *Freeman v. City of Santa Ana*, 68 F.3d
23 1180, 1189 (9th Cir. 1995) (identifying elements).

24 **B. State Law Claims**

25 1. Malicious Prosecution

26 The Court likewise dismisses Plaintiff's state-law malicious
prosecution claim because Plaintiff failed to present evidence to support

1 his allegation that his resisting arrest prosecution was not based on
2 probable cause. See *Hanson v. City of Snohomish*, 121 Wn.2d 552 (1993)
3 (listing elements of malicious prosecution).

4 2. Negligence

5 The Court also finds that no reasonable jury could that Defendants
6 were negligent. The evidence presented clearly established that all
7 Defendants exercised ordinary care under the circumstances.

8 For above-given reasons, **IT IS HEREBY ORDERED:**

9 1. Defendants' Motion for Judgment as a Matter of Law (**ECF No.**
10 **143**) is **GRANTED**.

11 2. Judgment is entered in Defendants' favor, and

12 3. This file shall be **CLOSED**.

13 **IT IS SO ORDERED.** The District Court Executive is directed to enter
14 this Order and to provide copies to Plaintiff and counsel.

15 **DATED** this 29th day of October 2010.

16
17 S/ Edward F. Shea
EDWARD F. SHEA
18 United States District Judge

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